



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

**CHAN**

July 22, 2013

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Wilkyn Artiles**  
Tax Registry No. 936148  
Police Service Area 5  
Disciplinary Case Nos. 2010-0077, 2011-3560  
& 2011-4740

The above named member of the service appeared before Assistant Deputy Commissioner David S. Weisel on March 28, 2012 and was charged with the following:

**DISCIPLINARY CASE NO. 2010-0077**

1. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles electronically filed a false complaint in the name of [REDACTED] with the New York City Civilian Complaint Review Board against two Uniformed Members of the Service. (As amended)

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT - PROHIBITED CONDUCT - GENERAL REGULATIONS**

2. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that on two separate occasions, Police Officer Wilkyn Artiles electronically reported to the New York City Civilian Complaint Review Board an incident that Police Officer Wilkyn Artiles knew, or reasonably should have known to be false against members of the service known to the Department.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT - PROHIBITED CONDUCT - GENERAL REGULATIONS**

3. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles electronically filed a false complaint in the name of [REDACTED] with the New York City Civilian Complaint Review Board against Uniformed Members of the Service. (As amended)

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT - PROHIBITED CONDUCT - GENERAL REGULATIONS**

**DISCIPLINARY CASE NO. 2010-0077      POLICE OFFICER WILKYN ARTILES**

4. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles electronically filed two false complaints with the New York City Civilian Complaint Review Board, thereby initiating a Department investigation. (As amended)

**P.G. 203-10, Page 1, Paragraph 5      PUBLIC CONTACT - PROHIBITED CONDUCT - GENERAL RÉGULATIONS**

5. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles retaliated against a member of the service based on Police Officer Artiles' belief that said member of the service was an IAB informant.

**P.G. 203-05, Page 1, Paragraph 4      PERFORMANCE OF DUTY - GENERAL GENERAL REGULATIONS**

**DISCIPLINARY CASE NO. 2011-3560**

1. Said Police Officer Wilkyn Artiles, while on-duty and assigned to Police Service Area 7, on or about October 28, 2010, made false and misleading statements during an Official Department interview in that said Police Officer stated, in sum and substance, that while searching a vehicle for contraband, he observed Police Officer Thomas Williams pick up a wallet that was on the seat of the vehicle and remove United States currency from the wallet.

**P.G. 203-08, Page 1, Paragraph 1      MAKING FALSE STATEMENTS**

2. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about January 9, 2010, while in Bronx County, failed to make complete entries in his Activity Log, as required.

**P.G. 212-08, Page 1, Paragraph 1 (c)      ACTIVITY LOGS**

**DISCIPLINARY CASE NO. 2011-4740      POLICE OFFICER WILKYN ARTILES**

1. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, while off-duty, on or about August 18, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Artiles, on two separate occasions, impersonated two individuals and electronically filed a false complaint with the New York City Civilian Complaint Review Board against two Uniformed Members of the Service.

**NYS PENAL LAW SECTION 190.25 (4) CRIMINAL IMPERSONATION IN THE SECOND DEGREE**

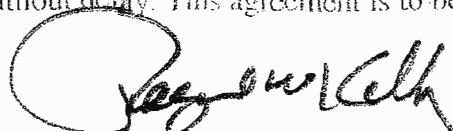
2. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about August 18, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles electronically reported to the New York City Civilian Complaint Review Board two incidents that Police Officer Wilkyn Artiles knew, or reasonably should have known to be false against two Uniformed Members of the Service.

**NYS PENAL LAW SECTION 175.30      OFFERING A FALSE INSTRUMENT FOR FILING IN THE SECOND DEGREE**

In a Memorandum dated June 5, 2013, Assistant Deputy Commissioner David S. Weisel found the Respondent GUILTY of Specification Nos. 1, 3 and 4, and Specification Nos. 2 and 5 were Dismissed in Disciplinary Case No. 2010-0077. The Respondent was found GUILTY of Specification No. 1, and NOT GUILTY of Specification 2, in Disciplinary Case No. 2011-3560. Respondent was also found Guilty of Specification Nos. 1 and 2, in Disciplinary Case No. 2011-4740. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

The Respondent was found guilty of engaging in several acts of misconduct which warrant his immediate separation from the Department. However, in lieu of dismissal from the Department at this time, the Respondent shall be offered a post trial negotiated agreement, in which he will immediately file for vested-interest retirement, forfeit thirty (30) suspension days (to be served), waive all time and leave balances, including Terminal Leave, if any, and all suspension days (with and without pay) previously served, if any. The Respondent is to also be immediately placed on One-Year Dismissal Probation. The Respondent will retire while on suspended status.

Such vested interest retirement shall also include the Respondent's written agreement not to initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If the Respondent does not agree to the terms of this vested-interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.



Raymond W. Kelly  
Police Commissioner



## POLICE DEPARTMENT

In the Matter of the Disciplinary Proceedings : X

- against : FINAL

Police Officer Wilkyn Artiles : ORDER

Tax Registry No. 936148 : OF

Police Service Area 5 : DISMISSAL  
X

Police Officer Wilkyn Artiles, Tax Registry No. 936148 , Shield No. 11565 , Social Security No. ending in [REDACTED] , having been served with written notice, has been tried on written Charges and Specifications numbered 2010-0077, 2011-3560 & 2011 4740, as set forth on form P.D. 468-121, dated February 22, 2010, June 27, 2011, and June 30, 2011, respectively. After a review of the entire record, in Disciplinary Case No. 2010 0077, Respondent has been found Guilty of Specification Nos. 1, 3 and 4; and Specification Nos. 2 and 5 are dismissed. In Disciplinary Case No. 2011-3560, Respondent is found Guilty of Specification No. 1 and Not Guilty of Specification No. 2. In Disciplinary Case No. 2011-4740, Respondent is found Guilty.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Wilkyn Artiles from the Police Service of the City of New York.

RAYMOND W. KELLY  
POLICE COMMISSIONER

EFFECTIVE:



POLICE DEPARTMENT

The  
City  
of  
New York

JUNE 5, 2013

In the Matter of the Charges and Specifications : Case Nos. 2010-0077,  
against : 2011 3560 & 2011 4740

Police Officer Wilkyn Artiles :  
Tax Registry No. 936148 :  
Police Service Area 5 :  
-----x-----

At: Police Headquarters  
One Police Plaza  
New York, New York 10038

Before: Honorable David S. Weisel  
Assistant Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department: Scott Rosenberg, Esq.  
Jessica Brenes, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent: Paul S. London, Esq.  
Attorney at Law  
177 East 161 Street  
Bronx, NY 10451

To:

HONORABLE RAYMOND W. KELLY  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

The above-named member of the Department appeared before the Court on March 28, 2012, June 19, 2012, June 25, 2012, August 1, 2012, September 10, 2012, December 20, 2012, and January 28, 2013, charged with the following:

Disciplinary Case No. 2010 0077

1. Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles electronically filed a false complaint in the name of [REDACTED] with the New York City Civilian Complaint Review Board against two Uniformed Members of the Service. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT PROHIBITED CONDUCT  
GENERAL REGULATIONS

2. Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that on two separate occasions, Police Officer Wilkyn Artiles electronically reported to the New York City Civilian Complaint Review Board an incident that Police Officer Wilkyn Artiles knew, or reasonably should have known to be false against members of the service known to the Department.

P.G. 203 10, Page 1, Paragraph 5 PUBLIC CONTACT PROHIBITED CONDUCT  
GENERAL REGULATIONS

3. Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles electronically filed a false complaint in the name of [REDACTED] with the New York City Civilian Complaint Review Board against a Uniformed Members of the Service. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT PROHIBITED CONDUCT  
GENERAL REGULATIONS

4. Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles electronically filed two false complaints with the New York City Complaint Review Board, thereby initiating a Department investigation. *(As amended)*

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GENERAL REGULATIONS

5. Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about September 2, 2008, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles retaliated against a member of the service based on Police Officer Artiles' belief that said member of the service was an IAB informant.

P.G. 203-05, Page 1, Paragraph 4 – PERFORMANCE OF DUTY    GENERAL  
GENERAL REGULATIONS

Disciplinary Case No. 2011 3560

1. Said Police Officer Wilkyn Artiles, while on-duty and assigned to Police Service Area 7, on or about October 28, 2010, made false and misleading statements during an Official Department interview in that said Police Officer stated, in sum and substance, that while searching a vehicle for contraband, he observed Police Officer Thomas Williams pick up a wallet that was on the seat of the vehicle and remove United States currency from the wallet.

P.G. 203-08, Page 1, Paragraph 1 – MAKING FALSE STATEMENTS

2. Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about January 9, 2010, while in Bronx County, failed to make complete entries in his Activity Log, as required.

P.G. 212-08, Page 1, Paragraph 1 (c) – ACTIVITY LOGS

Disciplinary Case No. 2011 4740

1. Said Police Officer Wilkyn Artiles, assigned to Police Service Area 7, while off-duty, on or about August 18, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Artiles, on two separate occasions, impersonated two individuals and electronically filed a false complaint with the New York City Civilian Complaint Review Board against two Uniformed Members of the Service.

NYS PENAL LAW SECTION 190.25 (4)    CRIMINAL IMPERSONATION IN THE  
SECOND DEGREE

2. Police Officer Wilkyn Artiles, assigned to Police Service Area 7, on or about August 18, 2008, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Wilkyn Artiles electronically reported to the New York City Civilian Complaint Review Board two incidents that Police Officer Wilkyn Artiles knew, or reasonably should have known to be false against two Uniformed Members of the Service.

NYS PENAL LAW SECTION 175.30 – OFFERING A FALSE INSTRUMENT  
FOR FILING IN THE SECOND DEGREE

The Department was represented by Scott Rosenberg and Jessica Brenes, Esqs., Department Advocate's Office. Respondent was represented by Paul S. London, Esq.

In Case No. 2010-0077, the Department moved to dismiss Specification Nos. 2 and 5. Respondent, through his counsel, entered a plea of Not Guilty to Specification Nos. 1, 3 and 4 in that case and to the charges in Case Nos. 2011-3560 and 2011-4740. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

### DECISION

In Case No. 2010-0077, Respondent is found Guilty of Specification Nos. 1, 3 and 4. Specification Nos. 2 and 5 are dismissed. In Case No. 2011-3560, Respondent is found Guilty of Specification No. 1 and Not Guilty of Specification No. 2. In Case No. 2011-4740, Respondent is found Guilty.

### SUMMARY OF EVIDENCE PRESENTED

#### The Department's Case

The Department called Denise Alvarez, Saverio Fanelli, Police Officer John Zorrilla, Police Officer Milciades Feliz, Herminia Olivo, Detective Willie Artiles, Lieutenant Richard Beshlian, Sergeant Arnold Torres, Deputy Inspector Ariana Donovan, Police Officer Manolin Molina, Police Officer Felix Salcedo, Police Officer Thomas Williams, Detective Anny Mendez and Sergeant Bryan Brooks as witnesses.

Denise Alvarez

Alvarez was the director of case management for the Civilian Complaint Review Board (CCRB). CCRB had a website whereby an individual could file a complaint.

Department's Exhibit (DX) 5 was a printout of a CCRB complaint sent electronically on August 18, 2008, at 2206 hours. The complainant was listed as [REDACTED]. He accused Police Officer [REDACTED], Police Officer John Zorrilla, and Sergeant Saverio Fanelli, and stated that all three officers were from Police Service Area (PSA) 7. The complainant alleged that when he was coming from his mother's residence, [REDACTED] grabbed him and threw him against the wall. [REDACTED] searched him by pulling his pants off in the lobby of a building. [REDACTED] told him to take off his shoes and underwear as well. When the complainant protested, [REDACTED] said that he had probable cause to search and reassured him that the sergeant was present. Another officer, "po zoriila" arrived and told the complainant, "[T]his what i get for hanging out at this time nigger." The officers, all of whom were in plainclothes, let the complainant go because he had no contraband.

DX 4 was a printout of a CCRB complaint sent electronically on August 18, 2008, at 2231 hours. The complainant was listed as [REDACTED]. He accused [REDACTED], Zorrilla and Fanelli. The complaint described Fanelli as "bold legged." He stated that he was leaving "the projects" when [REDACTED] stopped him, took him back inside to a staircase, and opened the door for Zorrilla. Zorrilla smacked him in the face and said, "I got you bitch ass nigga I told you not to run from me." [REDACTED] searched his pants and touched his testicles. [REDACTED] told him "to squat and open my ass cheeks mother fucker," then put a flashlight between his buttocks. The officers were angry because he had no drugs. The complainant noted that on May 22, 2008, [REDACTED] took 10 bags of crack from his pocket but did not arrest him, saying, "[D]on't worry

this is a freebi." The complainant complained to the sergeant, who laughed and told him, "[Y]ou have no rights you are a criminal." All of the officers were in plainclothes.

DX 2 was a printout of a CCRB complaint sent electronically on September 2, 2008, at 1301 hours. The complainant was listed as [REDACTED]. He accused [REDACTED] Zorrilla and Fanelli and gave shield numbers for Zorrilla and [REDACTED]. All of the officers were in uniform. The complainant stated that "po zorrilla" was "always searching me" and taking his "cigarettes" and "movies," which he called "taxation to the hood." On the date in question, the complainant "refused," and Zorrilla handcuffed him and threw him to the ground, saying, "[D]on't resist motherfucker" and banging his head on "the car." At the "pr[e]c[j]in[c]t," Zorrilla pushed him and the complainant protested that his legs hurt. Zorrilla dragged him into the cell and kicked him. The complainant protested to the sergeant, who told Zorrilla to "hurry up and get [the complainant] out of here." When the complainant asked for Emergency Medical Services, [REDACTED] took \$10 from him and never returned it. The complainant also had a bag of crack cocaine but he was not charged with it.

DX 3 was a printout of a CCRB complaint sent electronically on September 2, 2008, at 1317 hours. The complainant was listed as [REDACTED] and accused [REDACTED] and Fanelli.<sup>1</sup> The complainant stated that he was standing outside of a building when "po john mcaster [sic] sield [sic] 30712" arrested him for smoking marijuana. [REDACTED] removed three bags of crack from his own pocket and told the complainant that he could plant them on him. [REDACTED] asked the complainant if he smoked marijuana or had a gun in his apartment. He told [REDACTED] that he was "stepping out of line." [REDACTED] responded by "grabb[ing] my ass, and ask[ing] me if I

<sup>1</sup> The CCRB complaint used the [REDACTED] spelling, but the transcript recorded the name as [REDACTED] throughout the trial. An arrest report of [REDACTED] also used the more common "Z" spelling, so that spelling is used in this decision.

had crack in my asshole." When the complainant told [REDACTED] that he was violating his civil rights, [REDACTED] said, "[S]hut the fuck up you have no rights."

Alvarez testified that because CCRB investigated allegations of force, abuse of authority, courtesy and offensive language (FADO), CCRB complaints that alleged corruption were forwarded to the Internal Affairs Bureau (IAB).

All four complaints mentioned the officers' complete first and last names. They all were sent from a computer with the identical Internet Protocol (IP) address: 69.124.184.248.

Saverio Fanelli

Fanelli retired on disability from the Department as a sergeant in 2010 after 12 years of service. From April 2005 to November 2010, he was assigned as a sergeant to PSA 7. He denied observing the conduct detailed in the CCRB complaints.

On cross examination, Fanelli stated that he supervised the conditions and anticrime teams to which [REDACTED] Zorrilla and Respondent were assigned. The special operations lieutenant at PSA 7 was in charge of admitting police officers to these specialized teams. Fanelli did not recall if Respondent recommended [REDACTED] for a position in the anticrime team. Fanelli was aware that Zorrilla was on modified duty before joining the team. Fanelli agreed that Respondent was the best member of the team and Fanelli rated him a 4.5 out of a possible 5.0 on his annual evaluation.

Fanelli stated that [REDACTED] was a good officer and rated him a 4.0. [REDACTED] did not inform Fanelli that on or about December 29, 2007, he observed Respondent "stealing" drugs. In fact, [REDACTED] never complained about Respondent. Fanelli was unaware that [REDACTED] was a confidential informant (CI) for IAB.

Fanelli also supervised Police Officer Milciades Feliz. Feliz and Respondent were partners at one point. Fanelli did not recall if there was a falling out between them and that they requested to be separated.

Fanelli agreed that he had a mentor-mentee relationship with his subordinates. Fanelli recounted that at some point, Respondent found a baggie containing narcotics. Respondent showed it to Fanelli and vouchered it. The next day, Respondent performed a search of a radio motor patrol car (RMP) and found more narcotics. Again, Respondent informed Fanelli and vouchered the narcotics. Fanelli inspected the RMP but did not recall if the narcotics were taped to the bottom of a seat.

Respondent told Fanelli that he felt as if he was being monitored and a subject of an integrity test because he was finding narcotics. Respondent did not allege to Fanelli that [REDACTED] or Zorrilla worked for IAB.

Fanelli did not recall if anyone from the anticrime team complained about Respondent's professionalism between 2007 and 2008. Respondent was applying for a position in the Organized Crime Control Bureau (OCCB), specifically the Narcotics Division, but was not accepted. He did not display resentment after he was turned down for that position.

Fanelli recalled [REDACTED] but did not recall his arrest on July 10, 2008, at 0030 hours. [REDACTED] had been arrested by the "whole command" on numerous occasions. He agreed that an arrestee's telephone number would be listed on the arrest report but not on the pedigree information for the precinct's command log. Fanelli agreed that a police officer could access another police officer's arrest paperwork on Department computers. He did not know if any of the hard copies were "kept under lock and key or is it pretty much open to any members of the

service." Respondent could have accessed [REDACTED]'s arrest information from July 10, 2008, by using his own computer login code.

Fanelli did not recall if he was present near the vicinity of an arrest of [REDACTED] on August 20, 2008.

Police Officer John Zorrilla

Zorrilla was assigned to PSA 7 in January 2004. He admitted that he was on modified duty from 2004 to 2006 but denied that allegations of misconduct were made against him, claiming instead that it was "a family situation."

Zorrilla first was assigned to the anticrime team in late November of 2007. Zorrilla arrested [REDACTED] for robbery on July 12, 2008 (see DX 7, arrest report). Zorrilla denied the allegations in the [REDACTED] CCRB complaint. Zorrilla pointed out, however, that on prior occasions, Respondent had used the alleged offensive language. Respondent had said "you have no right, you're a criminal" on "the street," and had used the term "bitch ass nigga" in the locker room.

On August 20, 2008, Zorrilla arrested [REDACTED] for selling untaxed cigarettes and counterfeit movies (see DX 6, arrest report). Zorrilla denied that he told [REDACTED] "this was taxation to the hood" and "don't resist mother fucker." [REDACTED] did not complain that his legs hurt at the time of arrest.

Zorrilla did not know [REDACTED] and denied the allegations made in that complaint.

On December 29, 2007, Zorrilla was performing a vertical patrol at [REDACTED] Avenue with Respondent and [REDACTED] when he observed several small bags of narcotics on the

floor of the staircase. Zorrilla and Respondent picked up the narcotics and returned to the precinct. He did not know what Respondent did with the narcotics.

In 2008, Zorrilla said that Respondent contended [REDACTED] was working with IAB. He would say "it like in a general statement, not directly to me, but said it out loud so [REDACTED] could hear it too." Respondent would say to [REDACTED] things like "is your microphone on today, are you recording." He would add, "[B]e careful with this guy, he works with IAB." But Zorrilla learned from Police Officer Manolin Molina that Respondent also believed that Zorrilla worked for IAB.

On cross examination, Zorrilla stated that he was selected to be in anticrime; he did not request it.

Zorrilla testified that he observed five to ten bags of crack on the staircase of [REDACTED] [REDACTED] in December 2007. Zorrilla first denied that he went "up and question[ed] Officer Artiles and sa[id] what did you do with the crack you recovered from the building." Upon being told that there was a differing account on that issue, Zorrilla answered, "Yes, I never questioned Artiles. If I made the comment maybe it was because he picked up the drugs. Going to the station house I'm like are you the one going to voucher because he was basically the one who picked up the crack." Zorrilla did not notify IAB or know if Respondent gave three bags of crack to [REDACTED].

Zorrilla recalled encountering members of IAB one day in January 2008 that is, a suspected integrity test was performed on him and other members of the team. Zorrilla and [REDACTED] responded to [REDACTED] Avenue after receiving a radio run of a male selling drugs in front of that location. The description of the suspect was very specific. Zorrilla and [REDACTED] observed the male, but released him after taking his pedigree information. While they

were there, the radio dispatcher came over and stated that there were narcotics in the wheel well of a nearby vehicle. [REDACTED] went directly to the correct wheel well and found the narcotics. Feliz and Respondent also were present.

Zorrilla testified that after the December 2007 and January 2008 incidents, Respondent became “paranoid and angry and bitter” because he did not get transferred to OCCB.

Zorrilla agreed that he and [REDACTED] were friends outside of work. Although they did not socialize in person, they spoke on the phone. But Zorrilla described his relationship with Respondent as merely being a co-worker: “He goes his way. I go my way.” Nevertheless, prior to these incidents, Respondent was “was a good cop in the street.”

Respondent would make the comments about [REDACTED] working for IAB in the locker room and elsewhere around the command. There was no talk amongst the team members that Respondent or [REDACTED] should be transferred after Respondent made these comments.

Zorrilla testified that Molina also was assigned to the PSA 7 anticrime team. It was only three weeks before the trial that Molina told Zorrilla that Respondent suspected him of working for IAB.

Feliz told Zorrilla that he asked [REDACTED] if he was working as a CI for IAB. [REDACTED] denied it.

Zorrilla did not know if Respondent was on the anticrime team on the date that [REDACTED] was arrested. Zorrilla did not know if Respondent ever arrested [REDACTED]. Zorrilla mostly worked with [REDACTED] and Feliz.

Zorrilla asserted that he observed Respondent look up the total number of arrests that other officers, but not Zorrilla or [REDACTED] had made.

On re-direct examination, Zorrilla said that Feliz asked [REDACTED] if he worked for IAB because Respondent mentioned it so much.

On re-cross examination, Zorrilla explained that an officer could sign onto the Omni system using his code, and then the officer could enter another officer's code to search that second officer's arrest information. Zorrilla did not provide his code to Respondent and did not recall if he ever observed Respondent use another officer's code to access the system.

Police Officer Milciades Feliz

Feliz was assigned to the PSA 7 anticrime team. He testified that in 2007, Respondent alleged, on a few occasions, that [REDACTED] worked for IAB. Respondent said that Zorrilla "wasn't to be trusted" on a few occasions also. Feliz asked [REDACTED] if in fact he worked for IAB, but [REDACTED] denied it. In 2008, Respondent left the anticrime team.

Feliz explained that an officer could retrieve an arrest report of another officer by inputting the tax identification number of that officer in the Omni system. Tax numbers were available on the roll call. Additionally, sometimes officers' codes expired or they did not have a code, but still had to process an arrest, so officers borrowed a code from someone else.

Examining the [REDACTED] CCRB complaint, Feliz noted that the team members called Fanelli "Sammy," no one called him Saverio and a perpetrator would not have heard that name on the street. Feliz acknowledged that Fanelli was bowlegged. Feliz and Respondent would make fun of him for it.

On cross examination, Feliz agreed that both he and Respondent applied to Narcotics. Neither was selected, even though Respondent was the only one that had a recommendation.

Feliz was in the anticrime team for about a year before Respondent joined. Fanelli sometimes would ask Feliz's opinion about prospective team members. Feliz did not consider Respondent a friend and maintained a co-worker type of relationship with him.

Feliz denied knowing of an instance in which Respondent found a tape recorder in Zorrilla's bag. He did not know whether [REDACTED] had a tape recorder in his bag. He did not recall if Respondent told him that certain jobs they responded to were integrity tests. He did not recall the January 2008 [REDACTED] Avenue incident.

Feliz agreed that Respondent was paranoid. He never observed Respondent use another officer's computer code or access [REDACTED]'s arrest information.

Herminia Olivo

Olivo was Respondent's mother. In April 2008, she resided at an apartment in the [REDACTED] with her two sons, Respondent and Detective Willie Artiles, and her daughter, [REDACTED]. She did not know what the CCRB was and did not file a complaint with them. Olivo did not know [REDACTED], [REDACTED], [REDACTED] or [REDACTED]. There was one computer at her residence in 2008 but she did not use it and knew nothing about computers.

On cross examination, Olivo stated that Respondent never talked to her about [REDACTED] or Zorrilla. The computer was located in the living room. Her children told her that the computer had a lot of problems, including viruses and identity theft. Rajnarine Brigmohan, a computer technician, took the computer with him to remove the virus and then returned it. Olivo's cousin also resided with her but did not use the computer.

Detective Willie Artiles

Willie was Respondent's brother and a seven-year member of the Department. He was assigned to Narcotics Borough Manhattan North.

Willie denied filing a CCRB complaint against any members of the Department. He did not know Zorrilla, [REDACTED] or Fanelli, or [REDACTED], [REDACTED] or [REDACTED]. He had never visited the CCRB website. On August 18, 2008, he worked from 1033 to 0430 hours on August 19, 2008. His Activity Log indicated that at 2206 and 2232 hours, the respective approximate times of the [REDACTED] and [REDACTED] complaints, he was at Manhattan central booking (see DX 12, Activity Log; DX 13, overtime slip).

On cross examination, Willie stated that he and Respondent were "sort of like in a friendly competition" for arrests and annual evaluations. They would look up each other's arrests on Department computers. When Willie accessed Respondent's arrest information, he did not pay attention to names of the arrestees because he was interested in the number of arrests. Willie admitted that in February 2010, he received a command discipline (CD) for improperly using his computer code to look up his brother's arrests.

Willie had never spoken to Respondent about Zorrilla, [REDACTED], Feliz or Fanelli, or [REDACTED].

[REDACTED] He never witnessed his mother or sister filing a CCRB complaint online.

In August and September of 2008, Willie resided at his mother's [REDACTED] address. He moved out in 2010. There was one computer in the apartment and it was a gift to [REDACTED]. There was a Wi Fi connection in the apartment to which the computer, cell phones, and video game consoles all were connected. Willie and [REDACTED] had a basic understanding of computers.

Willie testified that [REDACTED] was a victim of identity theft. A credit card account was opened in her name. Willie hired Brigmohan, a friend, to remove the viruses from the computer.

Willie knew that there was a virus in the computer because the computer would turn off on its own and freeze. Brigmohan informed him that there were a lot of viruses in the computer and removed them.

The Wi-Fi system was not password-protected. The family's building had four apartments on each floor. Several family members also came by and used the computer.

On re-direct examination, Willie admitted that Brigmohan repaired the computer before September 2008. There was a wireless router next to the computer.

Lieutenant Richard Beshlian

Beshlian was the commanding officer of Group 7, the computer investigations arm of IAB. Beshlian had taken multiple courses concerning computer forensics for law enforcement. He had testified in federal court on behalf of IAB and had conducted 20 to 30 forensic investigations and supervised another 30 to 40.

Beshlian described an IP address as "the way traffic is moved" on the Internet. It was the computer's address, assigned to the Internet service provider (ISP). An ISP, like Verizon or Optimum, assigned IP addresses to its customers. Each computer device had its own IP address; multiple computers could not have the same one.

Beshlian explained that the metadata of an e-mail was information that described the information contained in the e mail itself. Metadata included the IP address. It was possible to determine the ISP if investigators knew the IP address. Once the ISP was determined, the ISP could be subpoenaed to determine who the customer was for that IP address.

On cross examination, Beshlian testified that a wireless router had its own IP address, but devices that accessed the Internet via the router had their own IP addresses.

Beshlian acknowledged that if he had a wireless router that was not password-protected, any individual would be able to access the router. If that individual sent an e-mail while connected to Beshlian's router, the e-mail would display Beshlian's IP address even though the e-mail was not sent by Beshlian. There would be no way of distinguishing whether the e-mail was sent by Beshlian's computer or the other individual's computer. Only a forensic test on the two computers could determine this. There was a "separately internal" IP address for each device connected to the router.

Beshlian explained that the media access control (MAC) address was embedded by the manufacturer onto every device. An ISP would provide investigators with the MAC address for the router in question, but not for the individual computers. The ISP also could provide any e-mail account registered with it.

Beshlian could not indicate whether the IP address on the CCRB complaints was assigned to an iPad, cell phone, or desktop or laptop computer.

Beshlian confirmed that a computer virus could obtain information from a computer, including the MAC or IP address. Specifically, a Trojan horse virus removed information and gave the person administering the virus control over the computer without the knowledge of the computer owner. The virus administrator could send information from the computer even though the computer screen appeared blank to the actual owner.

Beshlian agreed that IAB devised an integrity test in this case. He indicated that IAB sent an e-mail, purportedly from CCRB, to three addresses associated with Respondent's IP address. These were fatal360@optonline.net, willkastro@optonline.net and ea27@optonline.net. There was no response.

Beshlian testified that the strength meter on the router indicated the strength of the signal broadcast by the router. The closer the user was to the router, the stronger the signal.

Upon examination by the Court, Beshlian stated that if a wireless router had multiple wireless devices connected to it, the internal IP addresses might be different, but when a transmission was made through the router, the IP address of the router would be on the transmission.

Beshlian confirmed that for a computer to be accessed remotely, the computer must be turned on.

Sergeant Arnold Torres

Torres was assigned to IAB. He was the lead investigator on [REDACTED]'s allegation that on December 29, 2007, Respondent recovered alleged crack cocaine and failed to voucher it. [REDACTED] stated that he, Zorrilla and Respondent were conducting a patrol of [REDACTED] Avenue when this occurred.

Torres stated that [REDACTED] was interviewed by IAB and subsequently became a CI. [REDACTED] informed Torres that Respondent had asked Zorrilla if Zorrilla believed [REDACTED] was working for IAB. Zorrilla then asked [REDACTED] the same question. Torres confirmed that [REDACTED] was no longer employed by the Department.

On cross examination, Torres testified that [REDACTED] told him that the December 2007 incident at [REDACTED] Avenue was a vertical patrol. Respondent gave three bags of the alleged crack to [REDACTED] and kept the rest. Later in the tour [REDACTED] gave them back to Respondent. [REDACTED] asked Respondent what he was going to do with the narcotics.

Torres did not know where Zorrilla was during the time the narcotics were recovered. Zorrilla was not interviewed by anyone from IAB because [REDACTED] was a CI and IAB did not want to raise suspicion and compromise [REDACTED].

Torres testified that he prepared two integrity tests in January 2008. The tests involved placing imitation drugs "out in the open." The first test was cancelled because a member on Respondent's team knew someone on the IAB unit that was conducting the test. Additionally, before the second test was set up, Torres met with [REDACTED] and informed him that narcotics would be placed in the wheel well of the vehicle. The results of the integrity test were inconclusive because [REDACTED] recovered the narcotics. After the second test, [REDACTED] stated that he recovered them because no one else did.

On May 16, 2008, [REDACTED] indicated that no one wanted to work with him. During the course of several meetings, [REDACTED] said that he was losing the trust of other members of his team. Feliz confronted [REDACTED] and accused him of working for IAB. Moreover, Respondent blamed [REDACTED] for not being promoted to detective.

Torres agreed that IAB discussed [REDACTED]'s credibility, but did not conduct any type of investigation on him. Nor was an investigation conducted on Zorrilla.

Deputy Inspector Ariana Donovan

Donovan was assigned to IAB. On September 2, 2008, Donovan received the CCRB complaints purportedly made by [REDACTED] and [REDACTED]. Both [REDACTED] and [REDACTED] stated in interviews that they did not file the complaints.

IAB determined that Cablevision, which owned Optimum, was the ISP that serviced the IP address used to send the CCRB complaints. IAB subpoenaed Cablevision (see DX 9), which

returned information stating that the IP address belonged to Olivo at her [REDACTED] apartment. A subsequent review of Respondent's personnel records indicated that he and Willie also resided there.

Donovan indicated that Zorrilla's August 20, 2008, arrest of [REDACTED] took place at 2305 hours. She used the PSA 7 roll call (see DX 11) to determine that Respondent worked from 1800 hours on August 20, 2008, to 0235 hours on August 21, 2008.

Gonzalez was arrested by [REDACTED] on August 16, 2008, at 0058 hours for possession of marijuana (see DX 8, arrest report). Donovan used the roll call (see DX 10) to determine that Respondent worked from 1800 on August 15, 2008, to 0235 on August 16, 2008.

Donovan agreed that officers could retrieve arrest reports of another officer. Donovan tried to ascertain whether Respondent had obtained the arrest reports of [REDACTED] and [REDACTED] but the Department computer system, at that time, could not make that determination.

At the time of the [REDACTED] and [REDACTED] arrests, Respondent was assigned as the field training officer.

On cross examination, Donovan confirmed that prior to September 2, 2008, the last persons that Zorrilla and [REDACTED] had arrested were [REDACTED] and [REDACTED], respectively.

Donovan confirmed that allegations of missing property were investigated by IAB as corruption cases. When Donovan was asked whether the fact that Respondent was a subject of the December 2007 unvouched narcotics allegation made investigators focus on him in the false CCRB complaints case, she answered that IAB "looked at everyone." In [REDACTED]'s case, that meant IAB "spoke to" him. When asked if IAB "investigate[d]" [REDACTED], Donovan answered, "We did a cursory but other evidence le[ ]d to" Respondent. Olivo's IP address was

the initial lead that made investigators focus on Respondent. Donovan did not recall the steps taken to investigate [REDACTED]

Donovan acknowledged that Willie accessed Department computers by using Respondent's computer code.

Donovan conceded that neither Zorrilla nor [REDACTED] appeared on the roll call documents admitted as evidence for the dates they were listed on the arrest reports as the arresting officers for [REDACTED] and [REDACTED].

Police Officer Manolin Molina

Molina was assigned to the PSA 7 anticrime team. On January 9, 2010, Molina was Respondent's partner. A Viper unit called the command and indicated that an individual was selling narcotics from his vehicle in the vicinity of [REDACTED] Street. Viper also indicated that the narcotics were stored in garbage cans close to the vehicle. The command informed Molina, and Molina informed the rest of his team. The team, which included Molina, Respondent, and Police Officers Seth Massey and Diego DeJesus, arrived at the scene.

Molina retrieved several ziplock bags containing marijuana residue and went to the subject vehicle. The individual in the vehicle was identified as Tyd Lennard. By the time Molina approached Lennard, he was in handcuffs and detained for further investigation.

Lennard and his vehicle were brought to the command while Molina went to Viper to review the video surveillance. Molina then returned to PSA 7 where Lennard was detained. Lennard's vehicle was searched by the other members of the anticrime team in the PSA 7 parking lot.

Molina learned that no contraband was recovered from Lennard's vehicle but continued to debrief him. Lennard eventually provided information on a firearm and was released with a summons for possession of marijuana (see RX F, summons). Molina issued the summons at 1915 hours and resumed patrol with Respondent at 2040.

Molina admitted that he received a CD as a result of the incident because he did not enter Lennard's driver license number on the summons. He merely indicated that it was a New York State document and for "Lic. Class or ID Type," wrote "ID." He maintained that he wrote the summons "quickly, not accordingly and in a timely fashion."

On cross examination, Molina stated that he did not voucher the ziplock bags containing the marijuana residue because there was not enough residue to be tested. After his memory was refreshed with the Property Clerk Invoice (Respondent's Exhibit [RX] E), Molina testified that he recovered marijuana in usable quantities from Lennard's pocket and vouchered it.

Molina admitted that he did not document the description of Lennard's vehicle in his Activity Log. He did not indicate anything about a warrant check.

Molina did not see any currency exchange in the Viper video.

At PSA 7, Lennard was debriefed by Molina and the field intelligence officer (FIO). Molina did not know whether Lennard was signed up formally as a CI. Molina issued the summons to Lennard at PSA 7. The command log (RX G) indicated that Lennard was released at 2010 hours. Molina did not know how much money Lennard was carrying with him.

Molina did not recall if he determined whether Lennard was the properly registered owner of the vehicle. Lennard produced a driver license, but Molina agreed that "you didn't run his license, and find out that he had a[] suspended license." Molina did not make any entries in his Activity Log regarding a warrant check on Lennard.

Upon examination by the Court, Molina stated that Lennard was parked across from Morris Houses.

Police Officer Felix Salcedo

Salcedo was assigned to the PSA 7 anticrime team. On January 9, 2010, Molina informed Salcedo about that Viper had made a notification of a male selling drugs from his “truck” at 171st Street and Washington Avenue. The team went to the location. Williams was partnered with DeJesus and Salcedo was partnered with Massey.

Upon arrival, the officers “blocked off the truck” and removed Lennard from the vehicle. They also searched for evidence. Lennard was handcuffed, and then was frisked by Salcedo.

Williams and DeJesus drove Lennard to PSA 7 in a van while Respondent drove Lennard’s sport utility vehicle (SUV) there. Upon arrival, Lennard was placed in a holding cell while Salcedo, Williams and Respondent searched the SUV for contraband. Williams searched the driver side, Respondent searched the front passenger side, and Salcedo searched the rear passenger side.

Salcedo recovered a black wallet, searched it but did not find contraband. There was money in the wallet but he did not remove it. He searched the wallet for “one to three minutes” and placed it on the rear seat, close to the passenger side. He did not observe anyone else search the wallet. No contraband was recovered from the vehicle. Salcedo did not observe Williams return to Lennard’s SUV at any time. Salcedo did not know if Williams or Respondent saw him searching the wallet.

After searching the vehicle, the officers went into the station house and then resumed patrol.

Salcedo admitted that he received a CD for “improper” Activity Log entries and for failing to voucher the wallet.

On cross examination, Salcedo stated that he did not recall which team member handcuffed Lennard or if anyone walked around the SUV to ascertain the number of people inside.

When Salcedo frisked Lennard, he felt a bulge in his pocket. It was a large amount of currency. Salcedo only saw the money in Lennard’s pocket and did not remove it. Salcedo did not observe anyone remove anything from Lennard’s person and place it in the SUV. While Lennard was standing outside the vehicle, other members of the team searched the SUV for weapons. Salcedo did not observe any team member actually enter the SUV. Salcedo did not recall which team member recovered the marijuana residue. Salcedo maintained his line of vision on Lennard until Lennard was placed in the van.

Salcedo did not recall who escorted Lennard into the station house. He did not recall the amount of time it took to search the vehicle.

The SUV smelled of marijuana. Lennard’s wallet was on the rear seat, toward the middle, in plain sight. The search was conducted in the parking lot of PSA 7, which was accessible by all. Salcedo did not recall if he used his flashlight or if anyone else used his own.

Although Lennard’s SUV smelled of marijuana, Salcedo did not recover any from inside the car.

Police Officer Thomas Williams

Williams was assigned to the PSA 7 anticrime team on January 9, 2010. Williams was driving an unmarked van. When the team arrived at 171st Street, Lennard was instructed to exit the SUV. A search of the SUV and the area around the garbage can was conducted.

Williams and DeJesus brought Lennard to PSA 7 after marijuana was recovered. Respondent drove Lennard's SUV to the command. On the way, Lennard indicated to Williams that he "knew people that had guns." Williams informed the FIO of this information.

During the search of Lennard's person in front of the desk officer, a large amount of currency was recovered from his pants pockets. The money was returned to Lennard and the FIO debriefed Lennard concerning the guns in another room. Williams, Salcedo and Respondent went to the parking lot to search the SUV.

The search of the SUV took about 10 minutes. Williams searched the front and rear driver side while Respondent searched the front passenger side and Salcedo searched the rear passenger side. Williams did not find anything, but Salcedo found a wallet. It took only "seconds" for Salcedo to search the wallet. Salcedo placed it on the seat. Williams did not know if Salcedo found anything in the wallet. After the search, all three of them returned to the station house together.

Williams explained that the wallet was not vouchered because it was unclear whether Lennard was going to be processed as an arrest or if he was going to be released with a summons. If the latter, it would be unnecessary to voucher the money.

Williams resumed patrol but did not recall the time.

As a result of this incident, Williams received a CD for "improper" Activity Log entries.

On cross examination, Williams did not recall who removed Lennard from the vehicle because Williams was standing behind it. He also did not recall who placed Lennard in handcuffs. Williams opened all of the SUV's doors and agreed that the team looked inside the SUV for less than five minutes.

Williams confirmed that the inside of the SUV smelled like marijuana. Williams searched the garbage can area but did not find marijuana. Molina was near Williams when Williams searched the garbage can area. Molina then found the ziplock bags that smelled like marijuana, but Williams denied that the bags had residue in them. He did not recall what happened to the ziplocks. He also did not recall who placed Lennard inside the van for transport.

Williams indicated that the desk officer asked for Lennard's pedigree information but did not ask Williams for Lennard's name. Williams and the FIO escorted Lennard to the juvenile room. Lennard was still in handcuffs at the time. When the FIO returned Lennard to the front desk, however, Lennard was no longer in handcuffs.

Williams used his flashlight while searching the SUV. His feet were outside of the SUV while he leaned inside. All three team members overlapped each other while searching. He denied touching or removing anything from inside the wallet.

After the search, Williams informed Molina that there was no contraband.

Williams conceded that in the arrests he had made that were reduced to summonses, he still had to invoice the arrestee's property.

Detective Anny Mendez

Mendez was assigned to the IAB Command Center. Her duties and responsibilities included answering phone calls from complainants about police corruption and misconduct. The phone calls were recorded. After receiving an allegation, she prepared a report.

On January 9, 2010, Mendez received such a complaint. The anonymous caller stated that he drove the vehicle of a “Deft,” “████████,” back to PSA 7 in the course of a narcotics investigation. The vehicle was searched for drugs and a possible gun. “████” had approximately \$2,000 “on his person.” Separately, he had \$200 to \$300 in his wallet, which was on the back seat of the car. Williams, the only white member of the anticrime team, very “discreetly” removed the currency from the wallet and put it in his pocket. Williams then threw the wallet on the seat. The caller “didn’t feel very comfortable with it.” The caller gave a license plate and address for “████n” (see DX 19, callout log, p. 4; DX 20, recording of call; DX 20a, transcript of recording).

Sergeant Bryan Brooks

Brooks was assigned to IAB. In 2010, he was assigned to investigate the CCRB complaint purportedly made by █████. Zorrilla arrested █████ on July 12, 2008, at 0509 hours. Brooks used the roll call (DX 14) to determine that Respondent worked from 2200 hours on July 11, 2008, to 0535 hours on July 12, 2008.

Brooks interviewed █████ on January 4, 2011, when █████ was incarcerated on Rikers Island. Brooks said that when he asked S █████ if he ever made a CCRB complaint, █████ became “agitated” and “couldn’t believe that a complaint was made in his name and he denied ever making such a complaint. He stated that he doesn’t know how to use a computer

and never sent any such thing." [REDACTED] also was in Rikers on August 18, 2008, the date the CCRB complaint was filed.

To locate [REDACTED], Brooks conducted "[n]umerous computer checks, canvass this area in the Bronx, went to the housing complexes and inquired about Mr. [REDACTED] and all the searches for him yielded negative results." Brooks determined that there was no such person as [REDACTED].

Brooks interviewed [REDACTED] on February 8, 2011. She denied having filed a CCRB complaint and further denied any knowledge of [REDACTED] or [REDACTED].

Brooks testified that Tyd Lennard was arrested on January 9, 2010. Sometime after, an anonymous male caller called IAB and reported that he observed one of his "partners" taking money from Lennard's wallet and putting it into his pocket.

An initial interview with Respondent was conducted in February 2010. Respondent admitted to Brooks that he was the anonymous caller. Brooks interviewed Respondent again in May 2010 in a Department vehicle. Respondent stated that he observed Williams remove approximately \$200 from a wallet that was found in the rear of the vehicle and then put it in his pocket. Respondent told Brooks that he was "disgusted" but was unsure if it was an integrity test. A follow up official Department interview was conducted in October 2010.

Lennard was interviewed in January 2010 in a Department vehicle. During the first interview, Lennard indicated that the \$2,000 from his wallet "and another \$200 in cash" was returned to him. He "had no complaints" regarding the return of his property (see DX 17, transcript). A follow up interview was held in May 2010. Lennard reiterated what he said during the initial interview and also described the wallet as black leather (see DX 16, recording of interview; DX 16a, transcript).

Brooks reviewed Respondent's Activity Log entries from January 9, 2010 (DX 18). He contended, "Insufficient entries were made to this whole incident and [Respondent's] interaction with Mr. Lennard." There was a "[l]ack thereof of specific details of what his interaction and his specific duties were in regards to that incident." Brooks claimed that Respondent had no entries about the arrest or observing Williams remove money from the wallet. He should have written Lennard's name, that he drove the vehicle back to the command and that he conducted a search.

On cross examination, Brooks indicated that the CCRB complaints in the name of [REDACTED] and [REDACTED] were referred to IAB by CCRB in or around August 2008. [REDACTED] was interviewed, and "no other information was there to proceed with it any further." Respondent was no longer on the anticrime team at the time of [REDACTED]'s arrest.

Brooks learned that the allegation against Respondent about stealing narcotics during a vertical patrol was unsubstantiated.

Brooks did not conduct an official Department interview with [REDACTED] because [REDACTED] had already separated from the Department. An official Department interview of Zorrilla was not conducted because Zorrilla was not a subject of the case.

On re-direct examination, Brooks said that Respondent was not interviewed as a suspect in the case involving Lennard.

Upon examination by the Court, Brooks noted that RX E, the voucher for the field-tested marijuana recovered from Lennard, was the only voucher in the case. The command log (RX G) had nothing listed for Returned or Vouchered Property. Any prisoner property brought into the command, including the cash belonging to Lennard, should be placed on an invoice for accountability purposes.

Respondent's Case

Respondent called Tyd Lennard and Rajnarine Brigmohan as witnesses, and testified on his own behalf.

Tyd Lennard

Lennard was a "hustle[r]." He supported himself by acting as a ticket scalper. He previously was arrested for scalping tickets and marijuana-related offenses.

Lennard testified that on the date of the incident in question, he was stopped by the anticrime team on 171st Street. His wallet was in his right back pocket. He was sitting in the rear driver-side seat of his father's vehicle watching a movie, drinking alcohol and smoking a marijuana cigarette. A white male officer removed him from the car. Lennard was searched by two white males and his wallet was still in his back pocket. He also had about \$2,000 of gambling proceeds in his pocket. After he was searched, he was placed in handcuffs and questioned.

One of the officers took Lennard's wallet. While Lennard was standing outside, the officers searched the vehicle. It was about 15 to 20 minutes from the time he was removed from his vehicle to the time that he was brought to PSA 7. In the parking lot, the officers questioned him about marijuana and he admitted that there was some in his sock. He turned over a bag of marijuana, which he removed from his left sock, to an officer.

The officers searched the vehicle again and brought Lennard inside the station house. Lennard was unable to see who performed the search because his car was behind another vehicle. Lennard was taken to a side room and spoke to a detective who said, "[I]f you could help me, I'll help you." Lennard identified some individuals from pictures he was shown. He then was

issued a summons and released. No one returned his wallet and identification card, however. His identification card had his [REDACTED] Avenue address. No one asked him if he had a driver license.

Lennard described the condition of his vehicle after the search: "They ram shot the truck, they just threw everything around in the truck looking for stuff. All my Lotto papers, my DVD stuff . . . was . . . scattered all over the floor." Lennard drove away and went to play the lottery. When he went to check his numbers, he noticed his wallet was missing. He called his father to pick him up. When he returned to PSA 7 to retrieve his wallet, he was told that the officers had left for the night. He never went back again to obtain his wallet. Lennard believed that the police officers took the money, lottery tickets and identification card from his wallet, but he did not file a complaint against them.

Lennard was interviewed by IAB for a second time in May 2010, during which he identified two members of the anticrime team from pictures he was shown. He claimed that he told them in both interviews that his wallet was missing. He was nervous during his interviews with IAB.

Lennard also met with one of the Advocates and stated that no one returned his wallet. When asked at trial, "Did she ever point out to you how in your prior interviews you never mentioned anything about missing wallet or anything?" Lennard claimed, "Maybe I forgot to tell her."

On cross examination, Lennard agreed that his reference to the officer who removed him from the car as white was a reference merely to skin color and not a determinant of nationality.

When confronted with his statement at his May 2010 interview that his wallet and its contents were returned to him, Lennard stated, "Yeah. Well, I thought I had got my wallet back, but I didn't. All they gave me back was the money I had in my pocket."

On re-direct examination, Lennard testified that he did not have an identification card since the incident and obtained a replacement card only a few days before his testimony.

Lennard "didn't feel too comfortable" during his interviews with IAB because "I didn't really know what was going on. There was so much going on. They was talking to me and then I was talking and then all of a sudden I was inside" PSA 7.

#### Rajnarine Brigmohan

Brigmohan had 16 years of experience as an information technology (IT) consultant. He completed two semesters of computer science at Borough of Manhattan Community College and took some courses at Zincon Technology Institute, a certification school. Zincon certified Brigmohan in A+ and Network+, which he described as "the basic concept of computer systems" for the Windows operating system and a basic knowledge of computer networking, respectively. Brigmohan was in the process of starting a company with a partner.

In September 2008, Brigmohan was freelancing, doing in home repairs and on-site pick up and delivery of computers. He was trying to start his own company, which was incorporated in 2010. He had about 20 or 30 small-business and residential customers. Brigmohan managed the complete IT structure of these businesses, including routers, servers and work stations. He also consulted for Lenox Hill Hospital and North Shore-LIJ Health System.

Brigmohan testified that in September 2008, he made an on-site visit to Willie Artiles's residence because his computer was having problems. Brigmohan's girlfriend worked with

Willie's wife. Brigmohan turned on the computer and noticed that it was operating more slowly. He determined that the computer was infected with a lot of spyware and viruses. Spyware were programs that ran in the background of the web browser and collected information inputted by a user.

Brigmohan explained that a virus infecting a computer could disable the keyboard, and collect or send information to or from the computer, without the owner of the computer knowing. The virus administrator could have complete control.

Brigmohan agreed that if someone sent an e mail via wireless device while connected to the wireless router, the IP address of the modem would be the IP address in the e-mail. The owner of the computer would not be aware. A form on a website could be completed the same way. A virus administrator could do this as well.

Brigmohan noted that an ISP generally refreshed the customer's IP address every 30 days to a year as a safety precaution.

Brigmohan tried to install an anti-virus program on Willie's computer but was unsuccessful. He continued surveying the computer and noticed that the wireless router was unsecure and accessible by anyone. He was unable to fix the computer because it had too many viruses, so he took it home for more tests. After scanning the computer, Brigmohan learned that the computer was infected with over 50 Trojan horse viruses. Unable to remove the viruses, Brigmohan performed a complete system restore. Prior to this system restore, the computer was not able to access the Internet or to type anything because the virus would prevent any information from being inputted into the computer.

Brigmohan installed an anti virus program into the computer and then secured the wireless network by logging into the router and configuring it.

Brigmohan presented the Court with a demonstration of how a Trojan horse virus would perform. He remotely accessed a laptop computer via an unsecured wireless network using a tablet computer, both of which he brought with him. The demonstration used Remote Desktop Protocol (RDP). This was the same basic principle as a Trojan, except that with RDP, the owner of the computer knew that someone was accessing the computer remotely and gave permission. It was a similar concept to when an IT department of an institution logged on remotely to a user's computer to resolve issues. Brigmohan blocked the laptop's input, disabling the keyboard and mouse. He then blocked the screen and accessed the Internet.

On cross examination, Brigmohan admitted that he was paid \$85 per hour for his appearance at this trial.

Brigmohan did not perform a forensic analysis on Willie's computer and was not trained to do so. Brigmohan visited the CCRB website sometime in 2010 or 2011. He agreed that he could not say with any reasonable degree of certainty that someone other than Respondent sent CCRB complaints. He did not know if anyone accessed the computer via wireless router in September or August of 2008.

Upon examination by the Court, Brigmohan stated that being in possession of the computer that sent the actual Trojan virus was not required to access the infected computer as long as the proper RDP or something similar was utilized.

Respondent

Respondent was appointed to the Department in January 2005. After graduating from the Police Academy, he was assigned to the PSA 7 Impact unit. He worked there with Molina and [REDACTED]. While the average arrest number for Impact officers was around 10, Respondent

made 20 to 30 arrests. He subsequently was assigned to the PSA 7 conditions team, which later was designated as the anticrime team. [REDACTED] was on this team.

Respondent admitted that he conducted a vertical patrol at [REDACTED] Avenue, but it was on December 22, 2007. He worked on December 29, 2007, but did not go to that address.

Over the course of his time on the anticrime team, Respondent was confronted with many situations where he felt that his integrity was being tested. In one situation, he found what appeared to be crack wrapped in plastic upon responding to a burglary in progress with [REDACTED]. It required him to call Fanelli, voucher the substance, and notify IAB. The very next day, while inspecting a Department vehicle, he again found what appeared to be crack, wrapped in plastic and taped underneath the cushion of the backseat. Respondent again had to notify the sergeant and IAB. On another occasion that same year, while at a housing development, Respondent saw a white man in a Ford Crown Victoria with some type of camera or recording device facing him. Whenever his team searched a vehicle for drugs, [REDACTED] seemed to know exactly where to look. Respondent was astonished by "how fast he found it and how accurate and how on point he was."

Prior to October or November of 2008, Respondent and [REDACTED] had a great professional relationship. Around that time, however, Respondent and [REDACTED] were working together. Respondent reached into [REDACTED]'s bag by mistake and found a digital recording device. After finding this, Respondent admitted, he warned Feliz that they needed to be careful around [REDACTED]. Respondent did not know if [REDACTED] was trying to set someone up.

Around that time, drugs went missing from a voucher that Respondent and [REDACTED] had worked on together. Respondent admitted that he became both cautious and paranoid. He thought he was being followed. More than once, he exited the command and observed an

unmarked vehicle following him home. Several times, he went running and saw someone taking photographs of him.

Respondent's career goal was to work in the Narcotics Division and become a detective. Respondent's brother, Willie, was appointed to the Department at the same time as Respondent. The brothers competed with each other over who made the most arrests and who would be the first to be promoted to detective. In 2008, the brothers both had applications submitted for OCCB. Willie succeeded in getting the transfer but Respondent did not.

By August 1, 2008, Respondent was assigned as the field training officer at PSA 7. It was during this assignment that he realized he was not going to get transferred to OCCB. He was "angry and disappointed at myself," but claimed that he was not upset or disappointed with any of his conditions or anticrime team colleagues.

Respondent did not know anyone named [REDACTED], but he conceded that he had arrested [REDACTED] months before August 2008 for "intent to sell." Respondent did not use his home computer on "August 20, 2008," to send complaints to CCRB regarding [REDACTED] or [REDACTED]. Respondent did not know [REDACTED] or [REDACTED]. He did not use his computer on September 2, 2008, to send CCRB complaints regarding [REDACTED] or [REDACTED]. Respondent was working on the latter date.

In September 2008, Respondent lived in the [REDACTED] with his brother, sister and mother. He did not have his own computer, but there was a family computer in the residence. At one point that year, his credit card information was stolen. He realized this when a statement showed \$1,000 in food purchased in Florida, a place he had never been. His sister also had her credit card information stolen.

From August 2009 to January 2010, Respondent was assigned to a “revamped” anticrime team. In March 2010, Respondent was involved in a shooting and spent four months under investigation. He was ultimately cleared. After that, he did regular patrol for three to four months before becoming the Impact training officer.

On January 9, 2010, Respondent received a job from a Viper unit regarding a drug transaction taking place out of a vehicle located at [REDACTED] Street. He and his partner, Molina, drove by the car while they summoned the rest of their team to the location. Respondent removed Lennard from the vehicle. After frisking Lennard and handing him off to Salcedo and Williams, Respondent started searching the area of the vehicle to which Lennard had immediate access. There was a strong odor of marijuana, and Lennard admitted to smoking marijuana when asked by Respondent. Respondent did not find any drugs in the vehicle, however, and Molina and Massey went to Viper to review video footage. Respondent was directed to the garbage area of the building, where he found large ziplock bags with marijuana residue. Respondent admitted that no one secured those bags. He could not say why.

Lennard was transported to the command for investigation by Williams and DeJesus. Respondent followed in Lennard’s vehicle. When Respondent arrived, Williams told him that a strong odor of marijuana still was emanating from Lennard. When asked, Lennard admitted to Respondent that he had a bag of marijuana on his person. Lennard removed the bag from his sock area and gave it to Molina.

Molina and Respondent brought Lennard inside. Lennard had approximately \$2,000 on his person. While Molina counted the money, Respondent went back outside to inspect Lennard’s vehicle for contraband. He searched the rear passenger side of the vehicle while Williams searched the other side of the rear seat and Salcedo searched the front.

Respondent testified that he observed Williams take a wallet, open it, take money out, place the money in his pocket, and return the wallet in the “rear backseat” or “third backseat.” It was “semi-dark” outside, but the car lights were on. Respondent was less than two feet from Williams at the time.

Respondent and Williams had no relationship other than working together. Respondent was shocked by his conduct. He immediately removed himself from the area and called Willie. Willie advised him to call IAB. “I went inside the Command and I saw the poster that’s there that says report corruption, and that’s what I did.” He returned outside and called IAB. He reported that he observed Williams remove \$200 to \$300 from the wallet, though he was not certain exactly how much money was involved. He was nervous and in shock.

On May 13, 2010, Respondent was assigned to handle mail for “the borough.” Brooks called him and started the call with, “Hey, buddy. How are you?” Respondent told Brooks that they were not buddies. Respondent testified that Brooks had investigated the shooting and was “the main Sergeant basically that destroyed my career.”

Brooks informed Respondent that they needed to meet about Williams. When Respondent said that he needed representation, Brooks told him that representation was not necessary because it was “a severe case. It’s about corruption.” Brooks suggested that they meet at a diner, but Respondent wanted to meet in an “open, public place.” They agreed to meet in the parking lot of a Home Depot next to IAB’s Bronx headquarters. Brooks told Respondent that “there was a lot of noise going on” and asked to talk in Brooks’s vehicle. When Respondent got in, he found a detective and a lieutenant seated inside. Brooks asked Respondent what happened. As Respondent started to talk about the incident, they locked the doors. Respondent was not very comfortable.

Respondent was interviewed several times in reference to his disciplinary cases. He was honest at all of the interviews, including that day in the Home Depot parking lot.

On cross examination, Respondent claimed that he did not think in 2008 that [REDACTED] was working with IAB. There were numerous times that he felt he was the subject of integrity tests, but he did not believe that [REDACTED] was involved, even though [REDACTED] was present on those occasions. He noted that "I take everything as an integrity test."

Regarding the time that drugs went missing from a voucher that Respondent and [REDACTED] had worked on together, Respondent explained that he believed [REDACTED] miscounted the property, as he could be a little sloppy. Respondent did not feel any animosity toward [REDACTED] even after finding the recording device. He did not think that [REDACTED] was making recordings on behalf of IAB. He, nevertheless, warned Feliz to be cautious because he was "[s]emi-suspicious" of [REDACTED] r. He was suspicious of his "actions," not that he was making recordings.

Respondent asserted that he did not believe his transfer to the Narcotics Division was prevented due to an IAB investigation. Respondent voiced to others his disappointment. He asked around for a reason but never was given one. He believed that he needed to work harder by making more firearms and felony arrests. He did not think that reporting misconduct by other members of the service might help.

Respondent did not think that Zorrilla was giving information about him to IAB. He "assumed" but did not "know" that IAB was conducting the integrity tests on him.

Respondent was aware of the CCRB website prior to 2010. He was aware that anyone could file a CCRB complaint anonymously against a police officer through the website.

[REDACTED] Zorrilla and Fanelli worked on the anticrime team with Respondent. At the time, Respondent had access to complaint reports and arrest reports on the Department computer system.

Respondent contended that it was “[r]ight about evening” when he arrived at [REDACTED] Street on January 9, 2010. At the time of the incident, he had been working with Williams, Salcedo, Molina, Massey and DeJesus for almost a year. He got along fine with them, though he always felt on edge because of the integrity tests and “the charges.”

Respondent was by himself when he drove the vehicle to the command. He used a flashlight while searching the vehicle, but did not recall whether Williams and Salcedo did as well. It was nighttime, but there were lights on in the parking lot. The search lasted 20 to 30 minutes.

Respondent did not see the wallet before Williams picked it up. He did not say anything when he saw Williams pick up the wallet and take out the currency. He did not see the denominations. He could not say why he told IAB in his anonymous call that Williams removed \$200 to \$300. He told Brooks that he did not know how much money was removed.

Respondent believed that what he saw Williams do with the wallet was either an integrity test or corruption. Respondent “went a little bit further back from where the vehicle was parked. I took a deep moment. I smoked a couple of cigarettes. I grabbed the phone and I called” Willie, the only person he trusted. He did not know how long his conversation with Willie lasted. When Respondent stepped away from the vehicle, the search was not yet completed.

Perhaps ten minutes elapsed from the moment that Respondent observed Williams handle the wallet and the time Respondent went inside the command to get the IAB telephone number from the poster. He “guess[ed]” that Williams and Salcedo continued their search of the car.

On re-direct examination, Respondent testified that he interviewed for OCCB in December 2007.

Respondent testified that he trusted [REDACTED] until he found the recording device. He never specifically told any other officer that he believed [REDACTED] and Zorrilla worked with IAB. Respondent realized in 2009 that his transfer was not going to happen.

Respondent had visited the CCRB website several times. He first did so because some CCRB complaints were made against him and he wanted to see how the process worked.

#### The Department's Rebuttal Case

The Department re-called Lieutenant Richard Beshlian as a rebuttal witness.

#### Lieutenant Richard Beshlian

Beshlian testified that he was familiar with the forensic analysis of computer hard drives. It was the process by which investigators could search the contents of a suspect hard drive.

For someone outside Respondent's residence to have sent the CCRB complaints using Respondent's wireless router, the person would have to have known that there was an unprotected wireless network at the location, and the network would have to have been the strongest open network in the area.

Beshlian explained that the main way Trojan horse viruses got into computers was by e-mail. In order to target a specific computer with a Trojan virus, the virus administrator would need to know an e-mail address associated with that computer.

Because he did not have access to Respondent's computer around the time that the CCRB complaints were made, Beshlian could not determine whether or not the complaints that were sent from that computer were the result of a Trojan virus.

On cross examination, Beshlian confirmed that a Trojan could provide somebody access to another person's computer, make it appear as if e-mails were being sent from the other computer, and be used to fill out forms on websites.

Upon questioning by the Court, Beshlian explained that he could tell that the CCRB complaints were sent from a laptop or desktop computer because they came from a device that had web browsers that would not have been supported by a smartphone or tablet in 2008.

In order to utilize a Trojan on another person's computer, the suspect would have to know what type of Trojan he had, in addition to the computer's IP address.

#### FINDINGS AND ANALYSIS

##### Case Nos. 2010-0077 & 2011-4740

Respondent was assigned to the PSA 7 anticrime unit. His co-workers in the unit included former Sergeant Saverio Fanelli, former Police Officer [REDACTED], and Police Officer John Zorrilla.

Respondent was an ambitious police officer with high activity and a good arrest record. That was how he got the anticrime assignment. As such, he did a lot of narcotics enforcement. Sometime in 2007, he sought a transfer to the Narcotics Division, looking to be promoted to detective. He did not get transferred or promoted and was upset and suspicious about this.

Unbeknownst to Respondent, [REDACTED] had made an IAB complaint against him.

[REDACTED] alleged that during a vertical patrol at [REDACTED] Avenue on December 29, 2007,

Respondent found narcotics but failed to voucher them. IAB used [REDACTED] as an informant. Respondent asserted that in September or October of 2008, he found a recording device in [REDACTED]'s bag. Respondent also detected several obvious integrity tests, like finding what appeared to be narcotics taped to the underside of an RMP's backseat. He also observed people following him home and taking photographs of him while he was off duty.

IAB was, in fact, investigating Respondent. But he began to see them everywhere. By his own admission, he was very suspicious, even paranoid. He considered everything to be an integrity test.

On or about August 18, 2008, and September 2, 2008, four individuals [REDACTED], [REDACTED], [REDACTED] and [REDACTED] – purportedly filed CCRB complaints, two of the men on each of the two dates. The complaints all were made against Fanelli, [REDACTED] and Zorrilla. While it was determined that this [REDACTED] was not a real person, the other three men actually were arrested by [REDACTED] or Zorrilla shortly before the complaints were filed. The complaints were filed online using the CCRB's complaint form on their website. There were many spelling errors but the complaints were unusually detailed, including correct shield numbers. They also referred to officers as "PO."

When the supposed complainants were contacted, they all denied sending the complaints, and the matter was referred to IAB.

Certain computer-identifying information was recorded at the bottom of each of the online complaints. This included the Internet Protocol address, a numerical designation of a given computer network. The IP address was the same on each of the four complaints and was traced through the IP address's Internet service provider to Respondent's home. Lieutenant Richard Beshlian of IAB's computer crimes section testified that this meant a computer linked to

Respondent's home network sent the online complaints. He noted that other information on the complaints, recording that the sending device was using certain Internet browsers or operating systems, meant that the device that sent the complaints had to be either a laptop or desktop computer.

The Department argued that Respondent had motive to accuse other PSA 7 anticrime members falsely of mistreating complainants because he believed that those members had accused him of misconduct. Although Respondent lived with his mother, sister and brother, and the one desktop computer was shared by all of them, none of them had a similar motive. Respondent's brother also was a uniformed member of the service but had no connection to PSA 7. Respondent also had opportunity to learn the identities and details of interactions that the anticrime team had with citizens. He was working at the time of the three real arrests of the three real purported complainants. He also could check arrest reports on the Department's computer system, cross-referencing for officers whom he wanted to accuse. In 2008, however, this activity was not recorded by the Department's computer system.

Respondent denied making the false complaints. He claimed that he was framed by [REDACTED], who left the Department and refused to testify here. Respondent offered two ways that the complaints could have been made by someone else. He stated that the family computer had been having operating problems. He had his family friend and computer technician Rajnarine Brigmohan look at the computer. Brigmohan first noted that the network operated by use of a wireless router but was not password-protected. This meant that anyone spatially close enough to Respondent's home could piggyback onto the signal, without plugging anything into Respondent's computer, and send the complaints from his own device. The complaints still would list Respondent's IP address. This was known as "spoofing." Brigmohan also found that

the computer was infected with computer viruses. These "viruses" actually are computer programs created maliciously by others. One thing a virus can do is allow a suspect to take control of a targeted computer from a remote location without the targeted user knowing.

For the most part, Beshlian confirmed the technical aspects of Brigmohan's testimony. Beshlian pointed out several real-world caveats, however. To spoof Respondent by using his network, the suspect would have to know Respondent's residential address, know or believe that he had a computer, a wireless router and that it was password-unprotected, and know or guess the name of the network so he could find it on a list of nearby networks. The suspect also would have to know that all this was possible technically. Finally, the suspect would have to remain undiscovered by anyone who might have questioned his presence. Based on the times of the complaints, the sender would have needed to be outside Respondent's apartment for between 15 to 25 minutes on two separate occasions. The second of these occasions was after 10 o'clock in the evening.

As for taking control of Respondent's computer through a virus, Beshlian stated that the suspect would have to have sent the virus himself, or be able to control it and know Respondent's IP address, in order to operate the viral program that would control Respondent's device. If the subject already knew that Respondent had a computer, and knew that it likely would need to be a PC, i.e., the historical term for a device compatible with the International Business Machines Corporation (IBM) Personal Computer, as Apple products rarely get viruses, *and* knew or believed that it was infected with viruses, he still would have to know information about Respondent's computer to connect to it. The suspect also would have to know the particular virus because, as Beshlian testified, there are thousands of them.

The computer evidence powerfully demonstrated that Respondent sent the CCRB complaints. While he showed that it was possible technically for someone else to have done so, there is no evidence whatsoever that anyone did so. When Brigmohan came to repair the computer, he performed a complete system restore, making any future forensic examination moot.

Respondent's suggestion that [REDACTED] wanted to frame him is outlandish. It requires the premise that [REDACTED] was angry enough at Respondent that he would take the time and effort to engage in a scheme worthy of a spy novel, accusing himself of misconduct but hoping that the evidence would reveal the complaints were false and came from Respondent. For all that was said at trial about how terrible [REDACTED] was, there was no evidence that he would have taken such actions.

Respondent, on the other hand, was, by his own admission, paranoid and angry. He claimed to be angry at himself for not getting into Narcotics, but the Court does not credit his claim that he was not angry at the other members of his team for making possible IAB complaints against him. His anger and bitterness at other Department members came through on the stand at trial. He contended that Brooks, one of the IAB investigators, had ruined his career by the dastardly act of investigating a shooting in which Respondent was involved. In any event, after finding the recording device in [REDACTED]'s bag, Respondent told another officer, Feliz, that they had to be careful around him. Incredibly, Respondent claimed at trial that he did not suspect after this that [REDACTED] was working with IAB. Respondent also voiced suspicions about Zorrilla to others.

Respondent's counsel argued that an experienced officer like Respondent first would have made sure he could cover his forensic tracks before sending out the CCRB complaints.

This presupposes, however, that he knew his IP address would be captured by the electronically sent complaints. This was not necessarily common knowledge and there was no evidence that Respondent was aware of it. In fact, he testified that his computer usage was limited to paying bills and “search[ing] the web.”

The CCRB complaints themselves also show evidence that Respondent was responsible. Some of the language purportedly used by Zorrilla and Fanelli against [REDACTED] like calling him a “bitch ass nigga” and telling him that he had no rights because he was a criminal, were actually, according to Zorrilla, used by Respondent himself in real-life situations. The complaint referred to Fanelli’s bowleggedness, which, according to Feliz, Respondent and Feliz would joke about.

In sum, the Department proved by a preponderance of the evidence that Respondent sent the CCRB complaints in question. He thus is found Guilty of Specification Nos. 1, 3 and 4 in Case No. 2010-0077 (filing the false complaints against [REDACTED] and [REDACTED], thereby causing a Department investigation), and of both specifications in Case No. 2011-4740 (impersonating [REDACTED] and [REDACTED] by filing false complaints in their names).

Case No. 2011 3560

Specification No. 1

Respondent’s anger, disappointment and suspicion continued. On January 9, 2010, his anticrime team was notified by the command that an individual was selling narcotics out of his car. The team responded to the location and found the individual, Tyd Lennard. He was not selling narcotics but was in possession of a small amount of marijuana. He and his vehicle were

taken back to the command, not necessarily as an arrest but possibly for debriefing by the field intelligence officer. Lennard eventually was released with a summons for the marijuana.

Respondent saw this as another integrity test. He found it suspicious that the command just happened to give them cause to approach someone for narcotics sales, which would have been a felony, but who actually committed nothing more than misdemeanor possession of marijuana which, like in the several apparent previous integrity tests, still would have to be vouchered if Department regulations were being followed correctly.

Lennard's vehicle was searched. According to the Department, Police Officer Felix Salcedo checked a wallet in the back seat for contraband, but finding only money, put it back down. Police Officer Thomas Williams did nothing regarding the wallet.

Respondent asserted at trial, and during his October 28, 2010, official Department interview, however, that Williams picked up the wallet, removed cash, put it in his pocket, and placed the wallet back on the seat. He reported this to IAB on the evening of the encounter with Lennard. The October 2010 assertion, allegedly "false and misleading," is the focus of the first specification in this case.

At trial, Williams denied doing anything improper. The vehicle was searched according to Department regulations. Respondent insisted that his report was correct.

Beyond Respondent's statement, there is nothing to show that Williams took any money. Respondent, on the other hand, already has demonstrated his unreliability as a witness due to the fact that he lied so blatantly about not sending the false CCRB complaints, an act itself filled with deceit. Additionally, as he admitted, he was angry and paranoid about being passed over for a Narcotics assignment and thought he was facing an integrity test. He had reason to make a

defensive complaint against other officers whether it was true or not, knowing that he had driven Lennard's vehicle back to the command by himself.

Other evidence suggests that the call to IAB was concocted by Respondent. He stated that he immediately left the area of the search, called his brother for advice, entered the command, saw the corruption-reporting poster, and called IAB. Yet the IAB call-out log (DX 19) lists the call as made at 2130 hours. Respondent's Activity Log lists Lennard's apprehension as taking place at 1900 hours. In fact, Respondent wrote that he resumed patrol at 2030. That means that he waited perhaps two hours before calling IAB to report corruption, and did so an hour after his involvement with Lennard ended. During the call, he made it sound as if he had just left the scene of the van and had to hurry because the other officers were coming over to him. He also sounded more concerned with remaining anonymous and getting to the alleged corruption than answering the IAB calltaker's relevant questions.

Moreover, if Respondent were so diligent in responding to what he saw as an integrity test, such would suggest that he would have reported it immediately. And according to him, he did. According to the objective evidence, however, that is not the case.

Lennard was interviewed by IAB shortly after the incident. He stated that he received back all of his property after he was released and nothing was missing. About two years later, however, as the trial neared, Lennard told one of the Advocates and Respondent's counsel that his wallet was missing.

Lennard's account is not credible. He told IAB that he was not missing anything. His claim that he only realized before trial that his wallet was missing is ridiculous. Even if he was missing some items, like a lottery ticket and his ID, it defies understanding to think that he could have been missing his entire wallet for that long and not realized it or complained about it. In

any event, the claim is inconsistent with Respondent's account, in which Williams merely removed money from the wallet but returned it to Lennard's vehicle.

Nor is it possible that Respondent made a good faith error in reporting what appeared to be misconduct. This was not merely an accusation of failure to voucher property. Respondent specifically accused Williams of removing the currency, putting it into his pocket, and then leaving the wallet. If Williams had just recovered the wallet and put it into his pocket, it might have suggested a failure to voucher but not necessarily corruptive theft just like Respondent's alleged December 2007 failure to voucher narcotics as reported by McMaster and confirmed by Zorrilla. Instead, Respondent's allegation necessarily and categorically was an accusation that Williams stole funds from Lennard. Respondent had to know that this was false.

In sum, the Department proved by a preponderance of the evidence that Respondent's claim in his October 28, 2010, official Department interview that Williams took money from the wallet was "false and misleading." Accordingly, Respondent is found Guilty of Specification No. 1.

#### Specification No. 2

Respondent is charged with failing to maintain his Activity Log from January 9, 2010. Brooks, the lead IAB investigator, indicated that Respondent made no entries about the "arrest" of Lennard. In fact, this is not true. For 1900 hours on that date, Respondent wrote "1 under PO Molina [REDACTED]" This was a reference to Lennard's apprehension at that Bronx location, and that he was in the custody of Police Officer Manolin Molina, another member of the anticrime team. Molina testified that he placed additional details, including the issuance of the summons, in his own Activity Log.

The Court declines to accept the Department's argument that Respondent was required to note that he drove Lennard's vehicle back to the command and helped in the search. A strict requirement of such details would make Activity Logs too voluminous to maintain. In any event, Respondent correctly noted that at 1930, he was "62A," that is, he was off post for administrative reasons. Here, that was driving the vehicle and assisting in its search. He was doing this for about one hour, noting that he resumed patrol at 2030.

Additionally, the Court rejects the Department's argument that Respondent was required to memorialize that Williams took money from Lennard's wallet. First, it is the Department's position that Williams never took money from the wallet, much less touched it, so it is unclear why they insist Respondent should have written in his Activity Log that such a thing occurred. Also, members may remain anonymous when reporting corruption or other serious misconduct, see Patrol Guide § 207-21, Member of the Service Concerned, ¶¶ 1(c), 2 & Note. A strict requirement that such reports be memorialized in the Activity Log would vitiate confidentiality.

Accordingly, Respondent is found Not Guilty of Specification No. 2.

#### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 10, 2005. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found Guilty of serious misconduct. Although he had been with the Department for less than four years, Respondent was an ambitious and active officer. His drive

got him assigned to the anticrime unit within PSA 7. From there, he wished to be transferred to the Narcotics Division and receive his proverbial gold shield. That hope was dashed, perhaps, when another anticrime team member, [REDACTED], reported to IAB that Respondent recovered apparently discarded narcotics in a building stairwell but did not voucher it.

Failure to voucher narcotics is a corruption hazard, as such can be used to pay CIs or to “flake” innocent citizens. Cf. *Case No. 74415/99* (Apr. 8, 2002) (failing to voucher purchased narcotics and vouchering product that tested negative for narcotics in its place). The mere failure to voucher, however, is not a termination level offense in itself. See, e.g., *Case No. 85519/09* (May 6, 2010) (throwing out bags of alleged marijuana because officer thought they merely were seeds, or oregano); *Case No. 77368/01* (Mar. 5, 2003) (simply forgetting to voucher each bag, but without venal intent).

But Respondent saw the allegation as a permanent block on his career advancement. In response to this, Respondent began a personal vendetta against the fellow anticrime officers who he felt had wronged him and who he felt were working with IAB: [REDACTED] and Zorrilla, and their supervisor, Fanelli. In August and September of 2008, Respondent used the details of three arrestees to impersonate them and file CCRB complaints in their names against three of his fellow anticrime officers. Although Respondent first used a fictitious person to make a rather run of the mill complaint about an improper strip search, he quickly turned toward real individuals whom [REDACTED] and Zorrilla had arrested. Respondent used these three individuals to accuse [REDACTED], Zorrilla and Fanelli of misconduct that went well beyond, in a bad way, the FADO allegations CCRB is tasked with investigating. Respondent accused the officers of serious corruption, stealing currency and valuable personal property like cigarettes. That misconduct would be worthy of termination of employment, if not criminal prosecution. He

tried to ruin their lives because he believed that they had ruined his. All three of the complaints referenced taking drugs from suspects and not arresting them for it – exactly what Respondent saw the continued integrity tests as involving.

In January 2010, there was more of the same. Respondent made a false IAB complaint against a fourth anticrime officer, Williams, saying that he stole money from a prisoner. Again, Respondent was fearful that he was being set up or would be accused of misconduct. He lashed out as he had before.

Respondent's actions had the effect of diverting police and outside agency resources from real events and could have placed lives in danger. Respondent also gave false statements during the official Department interview concerning the IAB complaint he made. While Respondent's answers at the interview did not impede the investigation in a technical sense, as they did little more than repeat his original allegation, it is beyond unacceptable to lie during an official Department investigation.

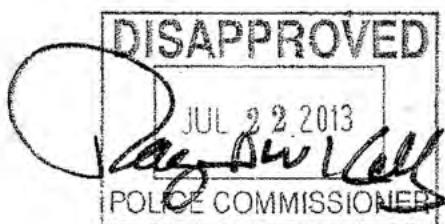
Respondent's serious and extensive misconduct in the instant case is incompatible with service in this organization. Accordingly, the Court recommends that the Respondent be DISMISSED from employment with the New York City Police Department.

Respectfully submitted,



David S. Weisel

Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER WILKYN ARTILES  
TAX REGISTRY NO. 936148  
DISCIPLINARY CASE NOS. 2010-0077, 2011-3560 & 2011-4740

In 2012, Respondent received an overall rating of 4.0 “Highly Competent” on his annual performance evaluation. He was rated 4.5 “Extremely Competent/Highly Competent” in 2010 and 3.0 “Competent” in 2011. He has been awarded three medals for Excellent Police Duty and two for Meritorious Police Duty.

[REDACTED]

Respondent has been on Level II Discipline Monitoring since March 2010. He has no prior formal disciplinary record.

For your consideration.

*David S. Weisel*  
David S. Weisel  
Assistant Deputy Commissioner – Trials